

REMARKS

The foregoing amendment and the following arguments are provided generally to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

Claims 1, 4-16, 19-27 and 29-95 are pending in this application. Claims 1, 4-16, 19-27 and 74-95 are rejected. Claims 1, 4-16, 19-27, 74-86, and claim 95 are cancelled. In this response, claims 87-94 have been amended. Claim 96 is newly added. No new matter has been added.

Reconsideration and withdrawal of the rejections set forth in the Office Action dated December 24, 2009, are respectfully requested in view of the remarks below.

Interview Summary Statement

A telephonic interview was conducted between Examiner Michael Misiaszek, and applicant's representative, Yenyun Fu. The undersigned representative wishes to thank Examiner Misiaszek for the telephonic interview conducted on March 3, 2009.

During the interview, the Office action and proposed amendments to independent claim 87 were discussed. The Examiner indicated that the currently cited are likely mostly concerned with digital cameras and photograph printing but would need to perform another search. The rejections under 35 U.S.C. §101 were also discussed. Examiner Misiaszek recommended claim language to overcome the 35 U.S.C. §101 rejections to claim 87.

Applicant herein submits the amendments based on the discussion with the Examiner and thanks the Examiner for the guidance herein provided. No particular agreement was reached during this interview.

35 U.S.C. §112 Rejections

Claims 84-86, 88 and 89

The Examiner has rejected claims 84-86, 88 and 89 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant respectfully disagrees. Claims 84-86 have been cancelled.

However, for the sole purpose of expediting prosecution, claims 88 and 89 have been amended such that the basis for rejection is no longer applicable. The withdrawal of the rejection under 35 U.S.C. §112, first paragraph is thus respectfully requested for claims 88 and 89.

35 U.S.C. §112 Rejections

Claims 24-27, 75, 84 and 95

The Examiner has rejected claims 24-27, 75, 84 and 95 under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Although applicant respectfully disagrees, claims 24-27, 75, 84, and 95 have been cancelled.

35 U.S.C. §101 Rejections

Claim 1, 4-16, 19-27, and 74-95

The Examiner has rejected claims 1, 4-16, 19-27, and 74-95 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. Claims 1, 4-16, 19-27, 74-86 and 95 have been cancelled.

Although applicant respectfully disagrees, independent claim 87 has been amended. The withdrawal of the rejections under 35 U.S.C. §101 is thus respectfully requested for claims 87-94.

35 U.S.C. § 103 Rejections

Independent claim 87

The Examiner has rejected claim 87 under 35 U.S.C. §103(a) as being unpatentable over Reifel, et al. (U.S. Patent No. 7,013,288 B1, hereinafter "Reifel") in view of Baum (U.S. Pub. No. 2002/0065741 A1) and Rosen. Applicant respectfully disagrees.

The cited references do not disclose all the subject matter in the independent claim 87

Applicant respectfully submits that when viewed as a whole, the cited references do not show the subject matter recited in the pending claims.

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).”

Applicant respectfully submits that Reifel, Baum, and Rosen do not render obvious applicants independent claim since when viewed individually or as a whole, Reifel, Baum, and Rosen do not disclose each and every element of independent claim 87.

For example, independent claim 87 includes:

87. *A method for sending a digital image from a mobile radiotelephone to an online web-services provider, comprising:*
receiving a request to process the digital image;
wherein, the request is initiated by a user using the mobile radiotelephone;
identifying the user that initiated the request;
wherein, the user is identified via the mobile radiotelephone;

generating a provisioner;

wherein, the provisioner specifies a computing device based on a network pathway and further comprises a user-customized setting specified by the identified user;

wherein, the user-customized setting includes a preference of the identified user;

*wherein, **the preference includes sending the digital image to the online-web-services provider;***

*in response to identifying of the user, automatically performing a single-event instantiation process, by the computing device, to **upload the digital image to the online web-services provider.** (Claim 42, emphasis added).*

Reifel describes systems and methods for providing cameras, such as digital cameras or film cameras, to consumers for free or at a discounted cost. In exchange, the consumer makes a commitment that a certain number of image reproductions or prints will be purchased by the consumer (Abstract, Reifel).

However, Reifel does not "receive a request that is initiated by a user using a mobile radiotelephone", or generate a provisioner where "the preference includes sending the digital image to an online web services provider" or performing an event to "upload the digital image to the online web-services provider", as claimed by applicant in claim 87.

Neither Baum nor Rosen cure the deficiency.

Thus, without admitting to the propriety of combining Reifel, Baum, and Rosen in a way presented in the Office Action, applicant submits that dependent claim 87 is patentable over Reifel, Baum, Rosen and over the combination of Reifel, Baum, and Rosen at least for the above stated reasons. Thus, at least for the above stated reasons,

the withdrawal of the rejections under 35 U.S.C. 103 is respectfully requested for independent claim 87.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, applicant's silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim. Therefore, the remaining dependent claims are also patentable over the cited references. The withdrawal of the rejections under 35 U.S.C. §103(a) is respectfully requested for dependent claims 88-94.

CONCLUSION

In light of the amendments and the preceding arguments, the applicant respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance.

If the Examiner believes that a conference would be of value in expediting the prosecution of this application, he is cordially invited to telephone the undersigned counsel at (650) 838-4306 to arrange for such a conference.

No fees are believed to be due, however, the Commissioner is authorized to charge any underpayment in fees to Deposit Account No. 50-2207 under matter number 42441-8001.US01.

Respectfully submitted,

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